6. That heretofore, and prior to the commencement of this action plaintiffs requested an examination of the records of the said Commission which under the Public Building Commission Act (Ill. Rev. Stat., Chap. 34, Para. 3310) said Commission is required to maintain and keep available to the public, but that said records were not available in the office of said Commission pursuant to the statute as aforesaid and that based upon information de hors the records of said Commission, the plaintiffs believe that said Commission has spent approximately $130,000 as of the 7th day of January, 1963.

Plaintiffs further allege that as to each and every Count hereof, the plaintiffs have no adequate remedy at law.

Wherefore, plaintiffs pray that upon a final hearing hereof, that a writ of injunction be directed to issue out of the office of the clerk of this Court directing said defendant Commission and their successors in office to restore all or part of the public funds heretofore granted to it by the defendant, Lake County Board of Supervisors; that a writ of injunction be directed to issue out of the office of the clerk of this Court upon final hearing hereof directing the said defendant herein, the Lake County Public Building Commission, to recover title to the public lands heretofore transferred to it by the defendant Lake County Board of Supervisors; that this Court find that the Public Building Commission Act is unconstitutional, void, illegal and invalid when applied to the factual situation existing in the said County of Lake or in the alternative, that the defendants, and each of them, have failed to comply or act in accordance with the valid provisions of said Act; that this Court find that the taxes levied by the said County of Lake for corporate purposes since 1957 and each year thereafter to date of this suit are illegal, void, invalid and unconstitutional and that

upon final hearing hereof, a writ of injunction be directed to issue out of the office of the clerk of this Court directing the defendant,. Lake County Board of Supervisors, to retain and set-aside such sums of public monies as may be ordered to be returned by the defendant, Lake County Building Commission, and further, direct said Board to appropriate and levy an additional sum sufficient to meet the sum of money that this Court may find to have been illegally levied for corporate purposes during the period in question and that this sum, plus any sum of money directed to be returned by the defendant Commission herein be made available in a special account, to the taxpayers of Lake County for the purpose of obtaining rebates for a period of One (1) year from the date such levy and appropriation as aforesaid, after due notice by publication and personal service of such notice upon counsel for the plaintiffs herein and thereafter, that such sum that is or may be remaining in said account after the one (1) year as aforesaid be applied by the Lake County Board of Supervisors to reduce or eliminate the tax for corporate purpose which may be levied in the ensuing fiscal year or years, until the sum of money in said account shall be depleted; that upon final hearing hereof that a writ of injunction be directed to issue out of the office of the clerk of this Court directing the defendant, Lake County Board of Supervisors, to hold a referendum at a special or regular election to determine the amount of debt to be incurred by said County for the purpose of erecting a courthouse; that upon final hearing hereof that a writ of injunction be directed to issue out of the office of the clerk of this Court directing the defendants, and each of them, or ther employees, agents or representatives, to cease and desist from uttering or publishing and false, fraudulent or misleading statements calculated to deceive the citizens of Lake County regarding the cost

or who is to bear the cost, of any proposed courthouse complex; that in the event this Court should find that Section 3318 of the Public Building Commission Act is legal and valid upon final hearing that a writ of mandamus be directed to issue out of the office of the clerk of this Court compelling the defendants, Lake County Board of Supervisors, to levy and collect the direct annual tax as required by the said Act in order to prevent the proposed abatement of said tax; that upon final hearing hereof that the defendant, Lake County Public Building Commission, be ordered to account to the plaintiffs herein for all moneys and property heretofore received and disbursed by said Commission from whatever source; that upon final hearing hereof, a writ of injunction be directed to issue out of the office of the Clerk of this Court directing the defendant, Lake County Board of Supervisors, enjoining it from accumulating public funds in excess of its actual financial needs, excepting therefrom such sum as may be required to meet normal contingencies and plaintiffs, and each of them pray for such other additional or further relief as to this Court may seem meet, just, proper and equitable in the premises, with the costs and other necessary expenses incurred by the plaintiffs in this and the prior action heretofore filed in this Court.

/s/ Paul E. Hamer
Paul E. Hamer
Attorney for Plaintiffs

1900 Shermer Avenue
Northbrook, Illinois.
CR 2-1800

SUPPLEMENTAL COMPLAINT

Now comes the plaintiffs Matthew Hoffman and Paul Hamer, by their attorney, Paul E. Hamer, complaining of the defendants and for supplemental causes of action alleges:

COUNT I

1. That the plaintiff Matthew Hoffman, is a citizen of the State of Illinois and a resident and owner of both real and personal property in the County of Lake which is subject to taxation by the County of Lake, that at all times herein mentioned he has been and now is a taxpayer of said County.

2. That at all of the times herein mentioned the Defendants were the duly qualified and acting members of the Board of Supervisors of the County of Lake, State of Illinois and together constituted said Board, the County of Lake is a body politic of the State of Illinois' and that the members of the Lake County Building Commission were appointed and acting as the Lake County Building Commission since their appointment on or about the third day of May, 1960.

3. That on or about the 10th day of October, 1956, prior to the elimination of the office of Township Collector, the County Board of Supervisors, at a duly constituted meeting, passed the following Resolution, to-wit:

> "Be it Resolved, that if and when these additional funds are available (from the elimination of the office of Township Collector), no levy shall be approved by the Board, which, when added to the balance on hand at the end of any fiscal year, plus anticipated earnings from all other sources during that year, shall produce in excess of the annual budgeted needs of Lake County."'

4. That the said plaintiff in reliance on said resolution did cast his vote in the election held to eliminate the office of Township Collector on November 6, 1956.

5. That as a result of the election as aforesaid, the office of Township Collector has been eliminated.

6. That as a result of the elimination of the township collection, the County receives approximately $1,000,000.-00 per year and that the tax levied by the County of Lake for the corporate purposes yields approximately $500,-000.00 per year.

7. That pursuant to the resolution adopted on the 10th day of October, 1956, the defendant County of Lake was to use these funds realized from the elimination of the office of Township Collector to reduce the real estate tax burden of the taxpayers of Lake County.

8. That the plaintiff duly performed all of the covenants and conditions of the said agreement, but that the defendant County of Lake has failed to comply with the covenants and conditions of the said Resolution.

9. That the plaintiff has no adequate remedy at law.

Wherefore, the plaintiff prays that the Court make an appropriate decree whereby specific performance of the Resolution may be enforced and for such other, further and different relief as to the Court shall seem meet and just.

COUNT II

1. That the plaintiff, Paul E. Hamer, is a citizen of the State of Illinois and a resident and owner of both real and personal property in the County of Lake which is subject to taxation by said County; that at all times herein mentioned he has been and now is a taxpayer of said County.

2. That at all of the times herein mentioned the defendants were duly qualified and acting members of the Board of Supervisors of the County of Lake, State of Illinois and together constituted said Board; the County of Lake is a body politic of the State of Illinois; and that the members of the Lake County Building Commission were appointed and acting as the Lake County Building Commission since their appointment on or about the third day of May, 1960.

3. That he appeared before the Lake County Board of Review, that he paid his 1961 Real Estate Taxes under protest; that he filed written objections pursuant to the provisions of sections 194 and 235 of the Revenue Act (Ill. Rev. Stat., 1961, Chap. 120, pars. 675 and 716); that the matter is now pending before the Family Court Division of the Circuit Court of Lake County, being case number 660-62.

4. That the allegations therein contained are similar with regard to the legality of the taxes herein contained in Counts IV and V of the original Complaint which are hereby made a part of this paragraph by reference.

5. That at the time of filing said tax objections, the County Court was without equitable powers and could not grant the relief sought herein.

6. That suit number 660-62 is only applicable to the taxes paid for 1961 and by case law and the ruling of the State's Attorney of Lake County, no recovery can be had for the relief sought under Count V of the original Complaint, which seeks recovery of the illegal corporate taxes levied by the county of Lake since 1957.

7. That since the filing of the Complaint herein a new tax year has become effective.

8. That the plaintiff, pursuant to the suggestions of the Supreme Court in their opinion in case number 38073, would like to pay his 1963 taxes under protest and file written objections thereto, but he is unable to do so as he has not received his tax bill for said period.

9. That the plaintiff does not have an adequate remedy at law.

Wherefore, plaintiff prays that this Court find that the tax levied for corporate purposes for the years 1957 through 1962 is illegal, void and unconstitutional, and order the defendant County of Lake, to refund that portion of the money which was paid during the periods in question.

COUNT III

1. That the Plaintiff Matthew Hoffman, realleges and repeats and makes a part of this Count, paragraphs one (1) of Count I and II herein and further alleges:

2. That the Public Building Act (Ill. Rev., Chap. 34, paras. 3301, et seq) is illegal, null, void, invalid and unconstitutional in that the Act was passed by the Illinois Legislature on or about the 5th day of July, 1955; that the said Legislature had undertaken to prolong its session by the mere expedient of stopping the clock, that the regular legislative session had ended by reason of the expiration of the period fixed by law for its duration, that the legislature was functus officio and ceased to have legislative power accorded to it while in lawful session.

3. That the Public Building Commission Act (Ill. Rev. Stat., Chap. 34, Paras. 3301, et seq) is void, illegal and unconstitutional in that it is in conflict with the Counties Act (Ill. Rev. Stat., Chap. 34, Paras. 501 to 507) which provide that when the assessed taxes exceed the statutory limitation established in Para. 406 of said Act, a special

election shall be held for such purpose and further the Public Building Commission Act is in contravention of the Counties Act (Ill. Rev. Stat., Chap. 34, Para. 2151 to 2159) which require a referendum to construct a jail and sheriff's residence.

4. That the purpose of the Public Building Commission Act is to permit those counties which have exhausted their general corporate tax authority to finance capital improvements by means of a levy of a small annual tax; that the County of Lake has not exhausted their general corporate tax authority by their own admission and that the Lake County authorities are utilizing the Public Building Commission Act as a means of circumventing the referendum required by the issuance of general obligation bonds required under the Counties Act.

5. That on or about the 1st day of September, 1963, the Lake County Public Building Commission and the County of Lake entered into lease whereby the Commission was to issue revenue bonds in the principal sum of $3,500,000.00 to construct a new county office building, without courtroom facilities and that the County will pay over a period of nineteen (19) years the sum of $9,375,000.00 in rental fees to the Commission, in addition to the $1,400,000.00 heretofore accumulated and transferred to the said Commission.

6. That on or about the 10th day of September, 1963, the County Board adopted a resolution, a copy of which is attached hereto and made a part hereof as Exhibit "A", by the terms of which the tax required by the Public Building Commission Act (Ill. Rev. Stat., Chap. 34, Para. 3318), will be abated.

7. That thereafter the County of Lake did appropriate, levy and transfer the sum of $250,000.00 to the Lake County Public Building Commission.

8. That the accumulation and transfer of the sum of $500,000 to the defendant herein is a misappropriation of public funds resulting from an unnecessary accumulation of money in the public treasury which is unjust, unpolitic and against the policy of the law.

9. That the accumulation and transfer of the sum of $500,000 to the defendant herein was in contravention of the Resolution of the County Board on October 10, 1956 ordering the disbursement of public funds.

10. That the portion of the Public Building Commission Act (Ill. Rev. Stat., Chap. 34, Para. 3318) which authorizes such cash grants is void, illegal and in contravention of the Illinois Constitution (Art. Two, Sec. Fourteen) in that said statute impairs the obligation set forth in the Resolution of the County Board passed on October 10, 1956.

11. That the portion of the Public Building Commission Act (Ill. Rev. Stat., Chap. 34, Para. 3318) which authorizes such cash grants is void, illegal and is in contravention of the due process of law provisions of both the State and Federal Constitutions in that the terms are indefinite and uncertain since there are no limitations placed on such grants.

12. That the transfer of said sum was a squandering of the public resources of the County of Lake, to replace which additional taxes will be required to be levied.

13. That the section of the Public Building Commission Act (Ill. Rev. Stat., Chap. 34, Para. 3318) which expressly authorizes cash grants to a commission is illegal, void and unconstitutional in that it permits taxing authorities to levy taxes designed to produce enough revenue to cover proposed grants circumventing completely all restrictions imposed by the Illinois Constitution (Arti-

cle Nine, Sections 8, 9 and 12) and other applicable statutes pertaining to the levying of taxes as the expenditures of public funds.

14. That Section 3315 of the Public Building Commission Act provides that the rental fees are to be determined after the issuance of bonds and not prior as in the instant case.

15. That the Commissioners are not experienced in real estate management, building construction or finance as required by the Public Building Commission Act.

16. That the Commission is a mere shadow of the County Board by virtue of the appointments of the Commissioners and the resolutions and leases by and between the Lake County Public Building Commission and the County.

17. That the Public Building Act (Section 3315) provides for the maturation of the Revenue Bonds in contravention of the decision in Peo. ex rel Adamowski v. Chicago Public Building Commission, 11 Ill. 2d 125.

18. That the plaintiffs do not have an adequate remedy at law.

Wherefore, plaintiffs pray that this Court find that the Public Building Commission Act either is unconstitutional, void and illegal when applied to the factual situation in Lake County or that the defendants have failed to comply with the terms of said Act.

COUNT IV

1. That the plaintiff, Matthew Hoffman, realleges and repeats and makes a part of this Count, paragraphs one (1) of Counts I and II herein and further alleges;

2. That on or about the 1st day of September, 1963, the Lake County Board entered into a lease with the Lake County Public Building Commission, under the terms of which the County will pay a total of $9,375,000.00 in rental fees over a period of twenty (20) years.

3. That where a contract calls for the payment of annual installments an indebtedness is at once created for the aggregate of all of the installments and further said lease creates a present debt of the leasee County for the aggregate of all the rentals.

4. That Section 12 of Article IX requires municipal corporations, before incurring indebtedness, to provide for the collection of a direct annual tax sufficient to pay the principal and interest on said debt within twenty (20) years and further, that said debt shall not exceed five per centum on the value of the taxable property therein.

5. That the indebtedness created by the subject lease is an indebtedness which falls within the second proviso of Section 12 of Article IX.

6. That a reading of the Resolution of the County Board dated the 10th day of September, 1963, a copy of which is attached hereto and made a part hereof as Exhibit "A" clearly shows that the indebtedness was incurred prior to the date of this resolution since the date of the lease was September 1, 1963, that the resolution does not provide for the collection of a direct annual tax to pay the principal and interest of this indebtedness and to the contrary, abates the tax required by the Public Building Commission Act and the Illinois Constitution to be levied and that the indebtedness created by the subject lease, when added to the other legal liabilities incurred by the County of Lake is in excess of five (5) per

centum of the value of the taxable property in said County of Lake.

7. That Section 29 of Article IV of the Illinois Constitution provides that the release of a public debt is prohibited and further, that Sections 9 and 10 of Article IX of the Illinois Constitution prohibit the commutation of municipal taxes.

8. That the plaintiffs do not have an adequate remedy at law.

Wherefore, plaintiffs pray that the resolution of September 10, 1963, be declared illegal, void and unconstitutional and that the County be directed to levy the tax required by the law and the Illinois Constitution to be levied and further, a finding either that the said indebtedness is in excess of the constitutional or statutory limitations.

COUNT V

1. That the plaintiff, Matthew Hoffman, realleges and repeats and makes a part of this Count, paragraphs one (1) of Counts I and II herein and further alleges;

2. That the City of Waukegan, by Ordinance vacated that portion of Madison Street in the City of Waukegan lying between Utica and County Streets.

3. That under the Illinois Municipal Code (Ill. Rev. Stat., Chap. 24, Para. 11-91-2), the title to the vacated land belongs to the abutting owners, unless the dedication expressly provide for a specific devolution of title.

4. That pursuant to the terms of the Illinois Municipal Code, the Public Building Commission does not own a portion of the land upon which the proposed structure is to be erected since the conveyance of Court House Square to the Public Building Commission was void and

illegal and the property should revert to the original dedicator.

5. That the defendant, Lake County Public Building Commission claim or assert an interest adverse to the plaintiffs herein and that the claim of the said defendant is without any right whatever, and the said defendant has not any estate, right, title or interest whatever in said land or premises or any part thereof.

6. That the plaintiffs are without adequate remedy at law.

Wherefore, the plaintiffs pray that the defendant Lake County Public Building Commission be required to set forth the nature of their claim so that all adverse claims may be determined by a decree of this Court and for such other and further relief as to the Court shall seem meet.

COUNT VI

Now comes the people of the State of Illinois on the relation of Matthew Hoffman, petitioner, by Paul E. Hamer, his attorney, and petitions this Honorable Court to issue a writ of mandamus against the respondents County of Lake, directing it to provide by ordinance or resolution for the levy and collection of a direct annual tax as required by law and in support of said petition, avers as follows:

1. That the Petitioner is a citizen of the State of Illinois and a resident and owner of both real and personal property in the County of Lake.

2. That the respondent is a municipal corporation and body politic of the State of Illinois.

3. That on or about the 13th day of August, 1963, the respondent, a municipal corporation having the power

to levy taxes, entered into a lease with the Lake County Public Building Commission, a copy of the lease, the resolution of levy and resolution are attached hereto as Exhibit "B".

4. That the Public Building Commission Act (Ill. Rev. Stat., Chap. 24, Para. 3318) provides that whenever a municipal corporation having taxing power enters into a lease with a Public Building Commission, the governing body of such municipal corporation shall provide by ordinance or resolution for the levy and collection of a direct annual tax sufficient to pay the annual rent payable under such lease as and when it becomes due and payable.

5. That the respondent has failed to comply with the applicable provisions of the Public Building Act and to the contrary did, on or about the 10th day of September, 1963 adopt a resolution which permits "the abatement of tax levies to pay said annual rentals" as more particularly set forth in the resolution, a copy of which is attached hereto and made a part hereof as Exhibit "A".

Wherefore, petitioner prays that a writ of mandamus be issued directed to the respondent and the governing body thereof, commanding them forthwith to adopt a resolution or ordinance for the levy and collection of a direct annual tax sufficient to pay the annual rent payable under the terms of the lease heretofore entered into and to further direct said respondents to file a certified copy of said ordinance or resolution in the office of the County Clerk of Lake County and for such other and further relief as may be just and proper in the premises.

As to this Count, Petitioner hereby demands a trial by jury.

COUNT VII

1. That the plaintiff, Matthew Hoffman, realleges and repeats and makes a part of this Count, Paragraphs one (1), two (2) and three (3) of Count I herein and further alleges as follows;

2. That the utilization of the Public Building Commission Act by the County of Lake deprives the plaintiff of the privilege of contracting by contravening the resolution of the County Board of Supervisors on October 10, 1956 and that the denial of the privilege of contracting is a liberty and a property right within the protection of the due process clause of both the Federal and State Constitutions.

3. That the portion of the Public Building Commission Act (Section 3318) authorizing cash grants is void, illegal and in contravention of the Federal Constitution (Article I, Paragraph 10) in that said statute impairs the obligation set forth in the Resolution of the County Board passed October 10, 1956.

4. That the protection afforded by the Federal and State Constitutional provisions against the passage or adoption of laws impairing contract obligations applies to contracts entered into by municipalities with individuals which may rest in or arise out of valid ordinances or resolutions of the municipality.

5. That the Resolution of the County Board dated September 10, 1963 abating the tax to be levied under the Public Building Commission Act impairs the obligation created by the resolution of the County Board dated September 10, 1963 levying the subject tax in contravention of Article Two, Paragraph Fourteen of the Illinois Constitution and Article I, Paragraph 10 of the Federal Constitution, since the power to levy and collect under the

existing law constitutes security for the debt to be incurred and to withdraw, restrict or limit the taxing power impairs the obligation of contract for the law fixing the tax in order to pay the indebtedness constitutes part of the contract.

6. That Section 3318 of the Public Building Commission Act is invalid in that it permits the municipalities to levy taxes to produce enough revenue to permit cash grants to the Commission thereby avoiding all restrictions otherwise imposed by law upon the levying of taxes or the expenditure of public monies other than for the corporate purpose and the County Board is without authority to levy a tax for the purpose of making cash grants to the County.

7. That the lease dated on the 1st day of September, 1963 attached hereto and made a part hereof as Exhibit "B" creates a debt or burden which is the equivalent of a tax which must be collected and a debt or tax is imposed in violation of Sections 9 and 10 of Article IX of the Illinois Constitution.

8. That the Public Building Commission Act does not establish a standard to guide the public officials in making determinations as to the amounts of property or cash grants in violation of Article III of the Illinois Constitution.

9. That the amendment of the Public Building Act (Ill. Rev. Stat., Chap. 34, Secs. 3301 et seq.) and the Conveyancing Act (Ill. Rev. Stat. Chap. 30, Secs. 156 to 158) which were amended August 4, 1961 to permit conveyances between a municipality and the Public Building provided the deed of conveyance contained a reverter clause was a curative change in the statutes, but the rule is firmly established that a curative statute cannot make

valid a proceeding which was void or to cure a complete want of authority since retrospective laws are invalid where they operate to impair a vested or contractual right.

10. That Section 3313 of the Public Building Commission Act is unconstitutional as denying the due process of law provisions of both the Federal and State Constitutions in that its terms are so vague, indefinite, incomplete and uncertain.

11. That the Public Building Commission Act is invalid when applied to the factual situation existing in Lake County and is an abridgement of the due process clause of both the Federal and State Constitutions where it has taken away a property right by impairing a contract obligation.

12. That it is clear from the language of August 6, 1963 and the lease of September 1, 1963 that the Commission does and will, either directly or indirectly possess indiscriminate control or influence over the taxes to be levied by the County.

13. That on or about the 1st day of September, 1963, the County and the Commission entered into a lease; that on or about the 10th day of September, 1963 the County adopted a resolution levying a tax for the rentals to be paid to the Commission; that the cash grants to the Commission by the County heretofore made have required and will require the levy of a tax to replace these sums diverted to the Commission; that the County presently appropriates and levies for the maintenance and operation of the County Building; that under the terms of the lease, the County will be required to appropriate and levy for the same purpose; that the County continues to levy for the maintenance and operation of the building even though

the obligation has passed to the Commission; that under the terms of the lease as aforesaid the County leases all of the space under a fixed rental obligation and it may sublease all or part of the space, but it will not reduce the rental obligation of the County nor will it reduce the burden upon the taxpayers for such an item, all of which result in double taxation in violation of the due process clause of both the State and Federal Constitutions.

14. That the remedy afforded a taxpayer under Sections 194 and 235 of the Revenue Act (Ill. Rev. Stat., Chap. 120. Paras. 675 and 716) violates Article II, Section 19 of the Illinois Constitution which affords a remedy for all injuries or wrongs which a person may receive in his person or property in that the subject provisions do not apply to personal property taxes nor do they permit the recovery of illegal taxes for those years other than the one for which the taxpayer paid his taxes under protest and filed written objections and that Article II, Section 19 is a clear mandate to the courts to provide a remedy for injuries when the General Assembly has failed to provide a remedy.

15. That the plaintiff does not have an adequate remedy at law.

Wherefore, plaintiff prays that the Public Building Commission Act, as it applies to the factual situation existing in Lake County be declared to be, set aside as, unconstitutional and void, that the utilization of the Public Building Commission Act would constitute an impairment of the obligation of the contract established by the Resolution dated October 10, 1956; that the imposition of the tax required by the Act to be levied would constitute an impairment of the obligation of contract all in violation of Section 10 of Article I of the Federal Constitution

and of Article II, Section 14 of the Illinois Constitution or in the alternative, that if the subject Act is found to be constitutional, the County shall be directed to levy and collect the tax required under Section 3318 of said Act.

/s/ Paul E. Hamer
Attorney for the Plaintiffs

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